IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 06.04.2018
CORAM
THE HON'BLE MR. JUSTICE T.S.SIVAGNANAM
W.P.No.8095 of 2018 &
W.M.P. Nos.10066 & 10067 of 2018

M/s.Nouveauk Industries (P) Ltd.
Rep. by its Chairman
A.S.Karthikeyan
No.1, Sowdambigai Nagar
Tirupur Road, Kangayam ...Petitioner

v.

1.The Commercial Tax Officer
Kangayam

2.The Manager
Federal Bank
Kangayam - 638 701 ...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, call for the records of the 1st respondent herein in TIN No.33143083014/2014-15 and quash the order dated 28.06.2017 passed therein.

For Petitioner : Ms.Hema Muralikrishnan

For Respondent : Mr.M.Hariharan
Addl. Govt. Pleader (T)

ORDER

Heard Ms.Hema Muralikrishnan, learned counsel appearing for the petitioner and Mr.M.Hariharan, learned Additional Government Pleader accepting notice for the respondents. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner is challenging an order of assessment under the provisions of the Tamil Nadu Value Added Tax Act, 2006 for the assessment year 2014-15.

3. The learned counsel appearing for the petitioner placed reliance on the decision of this Court in the case of Everest Industries Limited Vs. State of Tamil Nadu [reported in (2017) 100 VST 158] wherein this Court held that proviso to Section 19(2)(v) of the Tamil Nadu Value Added Tax Act, 2006 does not apply to manufactures. Therefore the learned counsel submits that the impugned assessment order passed by the respondent

is without jurisdiction.

4. The learned Additional Government Pleader points out that as against the order passed, the State has filed Writ Appeal and the Hon'ble Division Bench has granted an order of interim stay and the arguments in the Appeal is heard by the Division Bench and the orders have been reserved.

5. Therefore, at this juncture, the grounds canvassed by the learned counsel for the petitioner cannot be considered and the petitioner has to wait for the decision of the Hon'ble Division Bench.

6. The learned counsel for the petitioner points out that the petitioner has filed an application under Section 84 of the TNVAT Act to rectify the alleged mistake and the authority may be directed to consider the said application. Further, the learned counsel submitted that the petitioner's bank account has been attached by the 1st respondent by proceedings dated 22.03.2018.

7. In the light of the above, the writ petition stands disposed of by directing the petitioner to pay 25% of the disputed tax within a period of two weeks from the date of receipt of a copy of this order. If this condition is complied with, the bank attachment made shall be lifted and the 1st respondent is directed to consider the petitioner's application dated 09.08.2017 stated to be filed under Section 84 of the TNVAT Act and pass orders, on merits and in accordance with law. To facilitate the compliance of the direction, the petitioner is directed to enclose the copy of the said application along with the copy of this order and submit the same in person before the 1st respondent No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

Rj

To

1.The Commercial Tax Officer
Kangayam

2.The Manager
Federal Bank
Kangayam - 638 701

+1 cc to Mr.B.Raveendran Advocate sr 25533
+1 cc to Special Govt Pleader taxes sr 26028

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